

Advisory Opinion

IECDB AO 2005-11

August 15, 2005

TO ALL INTERESTED PERSONS:

Pursuant to Iowa Code section 68B.32A(11) and rule 351—1.2, the Iowa Ethics and Campaign Disclosure Board issues this opinion on contributors to a state party building fund not being required to file separate reports. The Board's jurisdiction is limited to the application of Iowa Code chapters 68A and 68B, Iowa Code section 8.7, and rules in Iowa Administrative Code chapter 351. Advice in a Board opinion, if followed, constitutes a defense to a subsequent complaint based on the same facts and circumstances.

OPINION:

In order to resolve a longstanding issue that involved conflicting interpretations and applications of federal and state campaign laws, the Board adopted rule 351—4.24. That administrative rule requires the state parties to file annual reports disclosing transactions involving their state building fund accounts. By filing these reports and using the funds for purposes as outlined by the rule, the state parties are able to accept contributions from corporations, insurance companies, and financial institutions.¹

The issue has been raised concerning whether contributors to a state party's building fund account who contribute over \$750 are required to file separate disclosure reports with the Iowa Ethics and Campaign Disclosure Board.

Under the state campaign laws any person, other than an individual, who contributes in excess of \$750 to a campaign committee incurs separate public disclosure filing responsibilities. The separate filing requirement for these contributors is to ensure full compliance with the campaign laws. These separate filings also help guarantee that the public is fully aware of all monetary transactions made to influence the outcome of Iowa elections.

The funds in a state party building fund account are not used to influence the outcome of elections. A state party's building fund account is used to pay for costs associated with the building including overhead expenses. The money is not permitted to be used for contributions to candidates or to otherwise directly "expressly advocate" for or against candidates.² Rather, a building fund account supports the infrastructure of the state party as a whole. This makes a contribution to a building fund account separate and distinct from a contribution to another state party fund that is used to directly benefit candidates.

In addition, the requirement for persons contributing in excess of \$750 to a state party to file separate reports is to ensure that otherwise prohibited contributors are not funneling money to the state parties. As the Board permits corporations, insurance companies, and financial institutions to contribute to the state party building fund accounts, the additional procedural safeguard of requiring separate large donor filings is not necessary.

Therefore, the Board is of the opinion that requiring the state parties to disclose transactions involving their building fund accounts is good public policy. However, requiring large donors to the state party building fund accounts to file separate reports does not offer the same benefits to the public.

Thus, the Board is of the opinion that persons who contribute in excess of \$750 to a state party building fund account are not required to file separate campaign reports with the Board.³

In closing, the Board encourages the state parties to review the requirements of rule 351—4.24 to ensure full compliance with the rule.

BY DIRECTION AND VOTE OF THE BOARD

James Albert, Board Chair
Janet Carl, Vice Chair
Gerald Sullivan
Betsy Roe
John Walsh
Patricia Harper

Submitted by: W. Charles Smithson, Board Legal Counsel

¹ As political party committees are creatures of both federal and state campaign laws, the ability of a state party to receive contributions for party headquarters from prohibited contributors does not apply to other Iowa campaign committees except for ballot issue committees (see Iowa Code section 68A.503).

² See Iowa Code section 68A.102(14) and rule 351—4.53(1) for definitions of “express advocacy.”

³ The state parties are required to disclose all contributors who give in excess of \$200 to a state party building fund account.